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DEC 14 2006
REMARKS

Appl. No. 10/710,335
Attorney Docket No. 70655.3200

Applicants reply to the Office Action mailed on October 19, 2006 within two months. Thus, Applicants request an Advisory Action, if necessary. Claims 1-20 were pending and the Examiner rejects claims 1-20. In reply, Applicants amend claims 1, 5, 7, 8, 12, 19, and 20 and address the Examiner's remarks. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

Applicants respectfully assert that the subject matter of the various claims was commonly owned at the time the inventions covered therein were made and therefore, Applicants have complied with 37 C.F.R. § 1.56.

Claim Rejections

§103(a) Rejections

Claims 1-13, 16 and 18-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Black, U.S. Pub. No. 2005/0122209 ("Black") in view of Hohle U.S. Pat. No. 6,101,477 ("Hohle"). Claims 14-15 stand rejected over Black/Hohle in view of de Sylva, U.S. 2005/0098621 ("de Sylva"). Claim 17 stand rejected over Black/Hohle in view of Wallace U.S. 5,988,497 ("Wallace").

Applicants' amendment to independent claim 1 renders these rejections moot. While Black and Hohle disclose various biometrics and smartcard technologies useful in transactions, neither Black, Hohle, nor any combination thereof, disclose or suggest a method comprising at least "generating data representing said proffered biometric sample; using said data representing said proffered biometric sample as a variable in an encryption calculation to secure at least one of user data and transaction data," as recited in amended claim 1.

Accordingly, Applicants assert that claim 1 is patentable over the cited references. Claims 2-20 variously depend from claim 1 and contain all of the elements thereof. Therefore, Applicants respectfully submit that claims 2-20 are differentiated from the cited reference at least for the same reasons as set forth above, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-20.

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For example, neither Black, Hohle, nor any combination of thereof, disclose or suggest at least a method "comprising using said data representing said proffered biometric sample as at least one of a private key and a public key to facilitate encryption security associated with said transaction," as recited in amended claim 7. Similarly, neither Black, Hohle, nor any combination of thereof, disclose or suggest at least a method "comprising using said data representing said proffered biometric sample in generating a message authentication code," as recited in amended claim 8.

Similarly, neither Black, Hohle, nor any combination of thereof, disclose or suggest at least a method "comprising using said data representing said proffered biometric sample to provide substantially simultaneous access to goods and initiation of authentication for a subsequent purchase of said goods," as recited in amended claim 12.

The amendments to the claims are supported in the specification by at least paragraphs [00331-00332]:

[00331] In another exemplary embodiment of the present invention, one or more biometric samples may be used to sign and/or encrypt information. For example, smartcard 100 and/or reader 2500 may be configured to receive a biometric sample from a user. The sample may then be digitized and used, for example, as a variable in an encryption calculation to secure data. If the user wants to retrieve the encrypted data, the user must submit the relevant biometric sample and have it authenticated by any of the methods described herein. Once the biometric sample is authenticated, the data will be decrypted for access.

[00332] Similarly, a biometric may be used as both a private key and a public key for encryption purposes. In one exemplary embodiment, an entity may use stored biometric sample information to encrypt data in a manner similar to a public key. The data may then be configured such that it is only accessible by a real biometric sample, for example, by a user proffering a fingerprint sample at a reader. Upon verification of the real biometric sample, the data may be decrypted and/or retrieved.

Additional support is found in at least paragraphs [00138-00146, 00249, 00253, 00316, and 00320]

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-20.

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CONCLUSION

Applicants respectfully submit that the pending claims (20 total, 1 independent) are in condition for allowance. No new matter is added in this Reply. Reconsideration of the application is thus requested. **The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814.** Applicants invite the Examiner to telephone the undersigned if the Examiner has any questions regarding this Reply or the application in general.

Respectfully submitted,

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